

TOWN OF WILTON

ZONING BOARD OF ADJUSTMENT

AUGUST 14, 1996

- VOTING BOARD: Vice-Chairperson Tom Mitchell; member Carol Roberts; alternate members Joanna Eckstrom and Bob Spears.
- CLERK: Diane Nilsson
- AGENDA: The Wilton Center School, Inc. (Kaj-Aage Arends Revocable Trust) - S. E. William Ladd/Rosemary Duggan - Variance

Mr. Mitchell called the meeting to order at 7:35 p.m. and read a letter from Wilton Center School, Inc., dated 8/1/96 and signed by Susan Arends, stating that due to unforeseen circumstances she was withdrawing the application for the school until further notice. (See file)

Mr. Mitchell then informed Mr. Ladd that only a four-member board was present, and that he had the option of going ahead with the hearing or waiting a month until a five-member board might be convened. Mr. Ladd chose to go ahead with the hearing.

Case #8/14/96-1 LADD/DUGGAN

William M. Ladd and Rosemary Duggan, Lot A-047, Stagecoach Road, in the Residential/Agricultural District and the Watershed, Aquifer Conservation, Wetland Conservation and Floodplain Conservation Districts, requested a variance to the terms of section 6.3.1 or section 14.3.2 of the Wilton Zoning Ordinance to allow them to subdivide Lot A-047 into two lots, one of which would have less frontage than allowed by the ordinance.

Mr. Ladd explained that he would like to subdivide a 60-acre parcel which was originally part of a 71-acre parcel (eleven acres of which is the recently sold Cobblestone Farm homestead.)

The remaining 60 acres exist on either side of a year-round stream. The stream runs parallel to Burton Highway until it crosses Stagecoach Road, and eventually makes a sharp right and runs parallel to Stagecoach Road through the entire length of the property, with wetlands and wildlife habitat on either side of it.

He explained that he wants to subdivide the lot in such a way as to make the 201' frontage on Burton Highway the frontage for the 43.5-acre lot and the remaining 1105' of frontage on Stagecoach Road, the frontage for the 16.286-acre lot. He stated that there is a condition on the plan that will not allow either lot to be further subdivided. Both parcels are in the watershed district which requires 300' of frontage for each lot. The 43.5-acre parcel is shy of the frontage requirement by 99'.

Originally, Mr. Ladd applied to the Planning Board for a subdivision with one normal frontage lot and one reduced frontage lot. Under section 6.3.1, the zoning ordinance states that a reduced frontage lot must be contiguous (next to) a normal frontage lot. Since the proposed reduced frontage lot is contiguous to normal frontage lots on all sides, the lot does qualify as a reduced frontage lot according to the zoning ordinance. The Planning Board, however, chose to interpret section 6.3.1 differently, and told Mr. Ladd that their intent, when writing the ordinance, had been to say that the contiguous normal frontage lots must be owned by the same party as the owner of the reduced frontage lot and, in fact the lots must all be in the same subdivision.

Mr. Mitchell stated that the ZBA will interpret section 6.3.1 exactly as it is written, which means that the 43.5-acre parcel does qualify as a reduced frontage lot.

Mr. Ladd then went over the five criteria for granting the variance.

Mr. Mitchell asked whether Mr. Ladd's application was accepted by the planning board. Mr. Ladd stated that it was not accepted because of an assumption by the planning board that an abutter, who actually was noticed, was not noticed. Then the planning board told Mr. Ladd that the 43.5-acre lot would not qualify for a reduced frontage lot and that he would have to get a variance from the ZBA in order to continue with the subdivision.

Mr. Mitchell stated that the ZBA, then, would have to consider the variance. He then asked if there were any comments from abutters.

Abutter Donna Hoover stated that as long as the lots are for single family development, she had no problem with it.

Ms. Eckstrom questioned the potential possibility of a cluster development on the larger parcel and asked if Mr. Ladd would consider adding a note on the plan prohibiting a cluster development. A discussion of cluster development ensued. Mr. Ladd agreed to put a stipulation on the plan stating that the development shall be restricted to a single family dwelling on each lot. The Board discussed whether to ask Mr. Ladd to add the stipulation to the plan.

Mr. Spears stated that he could see the protection already built into the zoning ordinance: in section 14.3.1, the ordinance states that in the watershed district the minimum lot size allowed is six dry acres per dwelling unit. The definition of a dwelling unit in section 3.1.6 is a dwelling for a single family.

Mr. Mitchell stated that even though the ordinance does protect the development, finding the appropriate sections is so confusing that he felt that it was not clear enough to warrant not putting the protection directly on the plan.

MOTION: Ms. Eckstrom moved to grant the variance subject to the stipulation that residential development shall be restricted to a single family dwelling on each lot. The motion was seconded by Mr. Spear and all were in favor.

Mr. Mitchell stated that the variance was granted. He also stated that the selectmen, any party to the action or proceedings, or any person affected thereby may apply for a rehearing of this decision. A request for a rehearing must be filed in writing with the Zoning Board of Adjustment on or before Tuesday, September 3, 1996 and must fully specify all grounds on which the rehearing is requested. (N.H. RSA 677:22)

MOTION: Ms. Roberts moved to accept Mr. Ladd's reasons in bold as the board's findings of fact, seconded by Mr. Spear. Three members were in favor and Ms. Eckstrom was opposed because she wanted the entire text of the applicant's reasons included.

FINDINGS OF FACT:

1. The proposed use would not diminish the surrounding property value because **it would avoid more intensive subdivision of the 59.8 acre master parcel, it would provide a permanent 43.5 acre buffer for surrounding properties and it would avoid the necessity for disturbance of the natural flow of the existing stream, and the disturbance of the natural habitat of extensive animal and bird life within the wetland and stream area.**

2. Granting this variance would be in the public interest because **the proposed reduced frontage lot reflects part of a carefully considered subdivision plan that is more harmonious with the natural terrain and habitat of the land than a conventional and strictly adherent subdivision plan and permanently limits the remaining 1,105' of easterly frontage on Stagecoach Road to one lot.**
3. Denial of the variance would cause unnecessary hardship because of the following circumstances which make this property unique from other properties in the same zone: **A year-round stream, contiguous wetland, and an expansive and integrated animal and bird habitat run approximately parallel with Stagecoach Road from North to South through the entire property. To subdivide the master parcel in strict adherence to the applicable zoning would promote a lot configuration which would both inhibit the full use of each lot by its prospective owners and invite otherwise unnecessary dredge and fill operations or other intrusions. Both the existence and use of the "woods road" as shown on the plan, predates the applicable zoning ordinance and has been used as a primary access for maintenance of the large rye field located on the east side of the stream. To deny the variance would frustrate the original purpose and use of the "woods road" to access and properly maintain that portion of the master parcel which naturally lies west of the stream. The substantial portion of non-wetland area of the master parcel lies east of the stream, on the Burton Highway side. The substantial portion of the road frontage of the master parcel lies west of the stream, on the Stagecoach Road side. In addition to a radical slope along approximately one-third of the Stagecoach Road frontage, there is an insufficient setback envelope to accommodate three houses on the west side of the stream. To deny the variance would almost certainly mandate dredge and fill operations for at least two lots in order to access from the Stagecoach Road frontage to the house locations on the west side of the stream.**
4. Granting the variance would do substantial justice because it would **promote a low impact subdivision which is most harmonious with the natural character of the land.**
5. The use is not contrary to the spirit of the ordinance because it **limits to one the number of reduced frontage lots on the south side of Burton Highway between Stagecoach Road and Isaac Frye Highway. The use better serves the neighborhood than would a development under the otherwise applicable provisions in the ordinance. It virtually eliminates any impact upon the existing stream and contiguous wetland area. It facilitates and preserves less-intensive subdivision, thereby restricting population density and activity. The use promotes preservation of the quality of the water and protection of the health and welfare of the residents of the Town of Wilton by minimizing sources of pollution through regulation and restriction of population density and activity.**

OTHER BUSINESS

MINUTES - July 10, 1996

Ms. Eckstrom pointed out two spelling errors: page 1 - Kaj-Agge Arends should be Kaj-Aage Arends. Page 2 - Neighbor Jackie Kale should be Jackie Kahle.

MOTION: Ms. Eckstrom moved to approve the 8/14/96 minutes as amended.

Mr. Mitchell stated that he would not vote to approve and since there were only three members present who could vote, the vote was tabled.

MOTION: A motion was made and seconded to adjourn the meeting. All were in favor and the meeting was adjourned at 8:50 p.m.

ATTEST,

Diane Nilsson

Diane Nilsson, Clerk

Posted: 8/20/96